

AMENDED IN SENATE JUNE 15, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2324

Introduced by Assembly Member Eggman

February 18, 2016

An act to amend Sections 47000.5, 47001, and 47004 of, and to add Section 47005.4 to, the Food and Agricultural Code, relating to certified farmers' markets.

LEGISLATIVE COUNSEL'S DIGEST

AB 2324, as amended, Eggman. Certified farmers' markets.

Existing law provides for the regulation of certified farmers' markets and authorizes the Secretary of Food and Agriculture to adopt regulations to encourage the direct sale by farmers to the public of all types of California agricultural products. Existing law requires vendors of agricultural products selling within a certified farmers' market to comply with specified requirements. Existing law makes it unlawful to violate the provisions regulating certified farmers' markets, and authorizes the secretary or a county agricultural commissioner, in lieu of prosecution, to levy a civil penalty against a person who violates those provisions. Existing law defines "agricultural product" for purposes of the certified farmers' market provisions.

This bill would revise the definition of "agricultural product" to include raw sheared wool.

This bill would specify the Legislature's intent that the secretary, in adopting those regulations and regulations clarifying the provisions

regulating certified farmers' markets, endeavor to keep costs incurred by farmers and certified farmers' market operators at a minimum.

This bill would additionally require vendors of agricultural products at certified farmers' markets to keep specified sales records for at least 12 months and would require a vendor to make those records available for inspection by any state or county enforcement agency within ~~3 business days~~ 24 hours of delivery of the request or within a reasonable time period, as specified. The bill would also require a certified farmers' market operator, upon written request by a state or county enforcement agency pursuant to an investigation of an alleged violation of a specified law, to commence to note and make record of the product identity of all fresh fruits and vegetables offered for sale by a vendor, and to furnish the agency with a copy of those notes and records within 3 business days of a subsequent request or within a reasonable time period, as specified. By imposing additional requirements on vendors and operators of certified farmers' markets, the violation of which would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 47000.5 of the Food and Agricultural
- 2 Code is amended to read:
- 3 47000.5. The following definitions apply to this chapter, unless
- 4 otherwise specified:
- 5 (a) (1) "Agricultural product" means a fresh or processed
- 6 product produced in California, including fruits, nuts, vegetables,
- 7 herbs, mushrooms, dairy, shell eggs, honey, pollen, unprocessed
- 8 bees wax, propolis, royal jelly, flowers, grains, nursery stock, raw
- 9 sheared wool, livestock meats, poultry meats, rabbit meats, and
- 10 fish, including shellfish that is produced under controlled
- 11 conditions in waters located in California.
- 12 (2) Products that are characterized as services, arts, crafts,
- 13 bakery, candies, soaps, balms, perfumes, cosmetics, pottery,

1 clothing, fabrics, pastas, compost, fertilizers, candles, ceramics,
2 foraged foods, and types of wares are not agricultural products for
3 purposes of this chapter. A product that combines an agricultural
4 product with a nonagricultural product or service in a manner that
5 materially increases the purchase price of the product shall
6 disqualify the product from being sold as an agricultural product
7 for purposes of this chapter.

8 (b) "Practice of the agricultural arts" means the undertaking of
9 being predominantly responsible for the decisions and actions
10 encompassing the various phases of producing an agricultural
11 product. The practice of the agricultural arts for fruit, floral, nut,
12 vegetable, and other plant products includes directive or actual
13 responsibility for all the actions of planting, growing, fertilizing,
14 irrigating, cultivating, pest control, and harvesting. The practice
15 of the agricultural arts for agricultural animal products includes
16 directive or actual responsibility for a substantial time of the
17 raising, feeding, veterinary care, and product harvesting.

18 (c) "Producer" means a person, partnership, corporation, or an
19 otherwise legally formed farm or ranch that produces agricultural
20 products by the practice of the agricultural arts upon land that the
21 person or entity owns, rents, leases, sharecrops, or otherwise
22 controls and has the documented legal right to possession. A person
23 or entity that rents, leases, or otherwise acquires the right to
24 possession of property essentially only for or limited to the period
25 of the harvest season of the agricultural products produced on that
26 property shall not be considered a producer under the provisions
27 of this chapter.

28 SEC. 2. Section 47001 of the Food and Agricultural Code is
29 amended to read:

30 47001. (a) The secretary may adopt regulations to encourage
31 the direct sale by farmers to the public of all types of California
32 agricultural products. It is the intent of the Legislature that, in
33 adopting those regulations, the secretary shall endeavor to keep
34 costs incurred by farmers and certified farmers' market operators
35 to a minimum, recognizing that any administrative costs imposed
36 on farmers and certified farmers' market operators are generally
37 passed on in the form of increased prices to the public, thus
38 economically benefiting neither the public nor the farmer.

39 (b) In accordance with the intent expressed in subdivision (a),
40 the secretary may adopt regulations clarifying the provisions of

1 this chapter, including the adoption of regulations for maintaining
2 the quality and wholesomeness of the products offered for sale
3 and promoting and fostering honest selling activities for those
4 products.

5 (c) The secretary may enter into a cooperative agreement with
6 a county agricultural commissioner to carry out the provisions of
7 this chapter, including, but not limited to, administration,
8 investigations, inspections, registrations, and assistance pertaining
9 to direct marketing producers and outlets. Compensation under
10 the cooperative agreement shall be paid from assessments and fees
11 collected and deposited pursuant to this chapter and shall provide
12 reimbursement to the county agricultural commissioner for
13 associated costs exclusive of the costs of certification and minimum
14 inspections required pursuant to Section 47020.

15 (d) Upon reasonable suspicion of a violation of Section 890, a
16 certified farmers' market operator may contract with a county
17 agricultural commissioner for a special onsite field or storage
18 verification inspection of a direct marketing producer selling in a
19 certified farmers' market operated and controlled by the operator.
20 All contracts and contract fees are subject to the discretion of the
21 county agricultural commissioner in the county where the
22 verification inspections are being requested.

23 SEC. 3. Section 47004 of the Food and Agricultural Code is
24 amended to read:

25 47004. (a) Certified farmers' markets are California
26 agricultural product point-of-sale locations that are registered under
27 the provisions of Section 47020 and operated in accordance with
28 this chapter and regulations adopted pursuant to this chapter.

29 (b) The operator of a certified farmers' market shall establish
30 a clearly defined marketing area where only agricultural products
31 may be sold. Only the producer or the lawful authorized
32 representative of the producer may sell agricultural products within
33 the area defined as a certified farmers' market. Sales of agricultural
34 products purchased from another individual or entity shall not
35 occur within a certified farmers' market, and an agricultural product
36 producer or product dealer shall not sell his or her agricultural
37 products to another individual or entity with the understanding or
38 knowledge that the products are intended to be resold in a certified
39 farmers' market in violation of this chapter or the regulations

1 adopted pursuant to this chapter. Every producer selling within a
2 certified farmers' market shall comply with Section 47020.

3 (c) All vendors of agricultural products selling within a certified
4 farmers' market shall do all of the following:

5 (1) Post a conspicuous sign or banner at the point of sale that
6 states the name of the farm or ranch, the county where the farm
7 or ranch maintains the production grounds that produced the
8 products being offered for sale is located, and a statement that "We
9 Grew What We Are Selling" or "We Raised What We Are Selling"
10 or "We Grow What We Sell" or similar phrases that clearly
11 represent that the farm or ranch is only selling agricultural products
12 that they themselves have grown or raised on California land that
13 they possess or control. Product sales by different farms at the
14 same vendor stand shall separate the products from each farm or
15 ranch and correspondingly post the required sign or banner in
16 direct relationship with the sales display of the products produced
17 by each farm.

18 (2) Ensure that all processed agricultural products that they offer
19 for sale state in a clear manner by package label, container label,
20 or bulk sales signage that they consist only, with the exception of
21 incidental flavorings and necessary preservatives, of agricultural
22 products grown or raised by the farm or ranch selling them, the
23 farm or ranch name, and the city where the farm or ranch is located.
24 In addition, every processed product shall identify on a package
25 label, container label, or on bulk sales signage the registration
26 number or other identity reference of the facility where the food
27 was processed, or another required labeling statement or
28 information, in accordance with Sections 110460, 114365, and
29 114365.2 of the Health and Safety Code, or, in the case of meat
30 or poultry products, the identity of the facility where the meat or
31 poultry products were cut and wrapped, in accordance with the
32 applicable United States Department of Agriculture or State of
33 California inspection standards, or, in the case of dairy products,
34 the identity of the facility where the dairy products were
35 manufactured or processed.

36 (3) Ensure all products being represented or offered for sale as
37 organic are clearly labeled or have conspicuous and posted
38 point-of-sale signage identifying the products as organic.

39 (4) Keep product identity, product variety, and quantity of sales
40 records for all agricultural product sales made to the public from

1 each certified farmers' market at which products were sold.
2 Records of these product sales shall be maintained by the vendor
3 for at least 12 months from the date of sale.

4 (5) Keep product identity and relative measured weight or
5 volume records of all unprocessed agricultural product delivered
6 to a processing facility for purposes of creating processed
7 agricultural product intended for sale to the public at certified
8 farmers' markets, including the name and address of the processor,
9 the dates when the unprocessed product was delivered by the
10 vendor to the processor, the dates when the processed product was
11 delivered to the vendor by the processor, the character and type
12 of processed agricultural product produced by the processor for
13 the vendor, and the relative measured weight or volume of the
14 processed product delivered back to the vendor. These records
15 shall be maintained by the vendor for a minimum of 12 months
16 from the date the vendor received the product from the processor.

17 (d) Upon a written request that specifically identifies the
18 information desired, the records required to be kept pursuant to
19 paragraphs (4) and (5) of subdivision (c) shall be made available
20 for inspection during normal business hours to any state or county
21 enforcement agency charged with enforcement of this chapter
22 within ~~three business days~~ *24 hours* of the delivery of the request,
23 or within a similar period of time that is reasonable for the
24 circumstances prevailing at the time.

25 (e) The representations required pursuant to subdivision (c)
26 shall be subject to the provisions and penalties specified in Section
27 890.

28 (f) An operator of a certified farmers' market that also operates,
29 manages, or otherwise controls a separate sales activity or vending
30 event or marketing area in close proximity, adjacent, or contiguous
31 to the operator's certified farmers' market shall not allow the sale
32 or distribution of fresh whole fruits, nuts, vegetables, cultivated
33 mushrooms, herbs, and flowers by vendors selling within those
34 sales activity or vending event or marketing areas.

35 (g) The operator of a certified farmers' market shall keep an
36 accurate participation record of the individual direct marketing
37 producers whose agricultural products were presented for sale in
38 their market each market day. The operators shall submit to the
39 department a quarterly report of the registration numbers and
40 participation frequency of the direct marketing producers whose

1 agricultural products were presented for sale in the operator's
2 market during that past quarter. The department shall create and
3 maintain online capability for reporting.

4 (h) Operators of certified farmers' markets may establish rules
5 and procedures that are more restrictive and stringent than state
6 laws or regulations governing or implementing this chapter, so
7 long as the rules and procedures are not in conflict with state laws
8 or regulations.

9 (i) Except for certified farmers' markets operated by government
10 agencies, nonprofit entities and other qualified operators of certified
11 farmers' markets shall be considered private entities and may take
12 actions, adopt rules, and impose requirements they deem necessary
13 for the proper and honest operation of their market, subject to the
14 application of any state or other laws. Government agency
15 operators of certified farmers' markets are subject to applicable
16 state laws, the regulations and laws of the governing agency, and
17 other laws governing the conduct and actions they may take as a
18 governmental entity.

19 SEC. 4. Section 47005.4 is added to the Food and Agricultural
20 Code, to read:

21 47005.4. (a) Pursuant to an investigation of an alleged violation
22 of Section 890, and upon a request by a state or county enforcement
23 agency specifying the vendor's name, farmers' market location,
24 and farmers' market date, the operator of a certified farmers'
25 market shall commence to note and make record of the product
26 identity of all fresh fruits and vegetables that the vendor offered
27 for sale on the specified farmers' market date. The operator shall
28 furnish to the agency copies of those notes and records within three
29 business days of the delivery of a subsequent written request or
30 within a similar period of time that is reasonable for the
31 circumstances prevailing at the time of request.

32 (b) Nothing in this chapter shall be interpreted to preclude the
33 creation and keeping of additional information that a certified
34 farmers' market operator may endeavor itself to create and keep,
35 or to contractually require ~~the provision of by a vendor to provide~~
36 *additional information* as a condition to selling in the operator's
37 farmers' market.

38 SEC. 5. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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